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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,440	01/31/2006	Sven Hermann	1454.1670	5071
21171 7590 03/31/2009 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER HEIDER, SHANTELL LAKETA				
ART UNIT 2617		PAPER NUMBER		
MAIL DATE 03/31/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,440

Applicant(s)

HERMANN ET AL.

Examiner

SHANTELL HEIBER

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 9-22-08
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 10-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lear et al. (Lear), U.S. Publication No. 2003/0099202.

3. **Regarding Claims 10, 17 and 19**, Lear discloses a method for delivering messages in a communications network, comprising: monitoring an arrival rate of messages destined for a geographical area within a short time period; establishing, upon reaching a threshold, a multicast group for routing the messages to the geographical area by joining to the multicast group network devices responsible for delivering the messages; delivering, upon establishment of the multicast group, the messages to the geographical area. **The IDN center manages the delivery of the streamed media to a plurality of clients by determining the most efficient delivery route to each client by utilizing trace routes between the IDN center, IDN nodes,**

various transmission devices and the client. Once a 'best performing' IDN node and network link is determined, the IDN center directs the client to the 'best' node and instructs deliver of a content stream along the 'best' link. Upon receiving the streamed media, the 'best' node replicates the stream and delivers the media to the client. Additional clients may 'piggyback' off the initial content stream by obtaining a replication of the media from their 'best' nodes which are, or connected to nodes, already transmitting/receiving the initial content stream; [0026]-[0029], [0048]-[0051], [0056] and [0072]-[0074].

- 4. Regarding Claim 11,** Lear discloses further comprising delivering any further messages destined for the geographical area arriving after the establishment of the multicast group via the multicast group. **[0048]**
- 5. Regarding Claim 12,** Lear discloses further comprising removing the multicast group after a predefined time period has elapsed within which no further messages destined for the geographical area arrive. **[0036] and [0048]**
- 6. Regarding Claim 13,** Lear discloses wherein each of the messages destined for the geographical area is defined by a geographical destination address. **[0056]**
- 7. Regarding Claim 14,** Lear discloses wherein the geographical destination address of each of the messages destined for the geographical area is identical or substantially similar. **[0032] and [0048]**
- 8. Regarding Claim 15,** Lear discloses performing using a soft state message counter. **[0064]**

9. **Regarding Claim 16**, Lear discloses wherein said delivering uses fast internet protocol forwarding to forward the messages in the multicast group. **[0082]**
10. **Regarding Claim 18**, Lear discloses wherein each network device is a router or a gateway. **[0062]**

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTELL HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./
Examiner, Art Unit 2617
March 24, 2009

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617